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December 16, 1996

Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

BY HAND

Re: CC Docket No. 96-45 -- Comments of IXC
Communications, Inc.

Dear Mr. Caton:

On behalf of IXC Communications, Inc. ("IXC"), enclosed please find an original and four (4) copies of IXC's Comments in the above-referenced matter. A copy of IXC's Comments is also being served today by U.S. mail on each of the individuals identified in the service list attached to the Commission's November 18, 1996 Public Notice [DA 96 1891]. Further, one copy of IXC's comments is being provided to International Transcription Service. Finally, a diskette with IXC's Comments is being provided to Ms. Sheryl Todd at the Common Carrier Bureau.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Gary L. Mann
Gary L. Mann

Enclosures

cc: Service List
ITS
Ms. Sheryl Todd

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Federal Communications Commission
Office of Secretary

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Federal-State Joint Board)
on Universal Service)

CC Docket No. 96-45

COMMENTS OF IXC COMMUNICATIONS, INC.

Gary L. Mann
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IXC Communications, Inc.
98 San Jacinto, Suite 700
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(512) 434-2517

December 16, 1996

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Federal-State Joint Board)	CC Docket No. 96-45
on Universal Service)	
)	

COMMENTS OF IXC COMMUNICATIONS, INC.

I. Introduction

IXC Communications, Inc. (IXC) is a carrier's carrier. As such, IXC supplies digital transmission facilities to the major interexchange carriers, telephone companies, corporate clients and the Department of Defense. IXC's network, containing over 1,700 fiber optic route miles and 5,000 digital microwave route miles, extends from coast to coast. Beginning in 1997, IXC will add another 4,000 route miles of fiber optic cable to supplement its existing New York to Los Angeles route.

While IXC supports the concept of universal service and concurs with many of the Joint Board's recommendations, including its recommendation to adopt the principle of competitive neutrality,¹ the approach presented by the Joint Board is not competitively neutral and would harm carrier's carriers, wholesalers and other similarly situated entities by placing them at an unfair competitive disadvantage. Simply put, as IXC currently understands the Joint Board's proposals, entities like IXC will be required to

¹ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, Adopted November 7, 1996, Released November 8, 1996, para 43 (Joint Board Recommendation).

contribute to the universal service fund but will not receive credits for carrier common line charge discounts or long term support payments. Thus, entities like IXC will be placed at a competitive disadvantage *vis a vis* companies that do receive such credits.

II. Universal Service Support Mechanisms Must Be Competitively Neutral

The Joint Board believes that Section 254(b)(7) of the Act allows the Commission to establish the additional principle of competitive neutrality.² The Joint Board also believes that “[u]niversal service support mechanisms and rules should be applied in a competitively neutral manner.”³ IXC concurs. Congress’ primary goal under the Act is to encourage the development of meaningful competition. To achieve this, universal service support must not favor a class of providers, nor should it harm a class of providers. Accordingly, universal service support mechanisms should neither favor nor disfavor one class of facilities providers or one type of service providers over another. Contributions made to support universal service should be collected from all telecommunications carriers, but the manner in which they are collected must be equitable and nondiscriminatory.⁴ They cannot affect disproportionately any particular class of service providers if they are to be competitively neutral.

Under the Joint Board's recommendation, IXC will contribute to the Universal Service Fund. Unlike telecommunications carriers, IXC will not receive huge discounts or credits for carrier common line charges or long term support payments, because IXC

² *Id.*

³ *Id.*

⁴ 47 U.S.C. § 254(b)(4).

is a carrier's carrier and does not provide telecommunications services as such.⁵ Any additional tax or charge to IXC above what it is now paying will directly increase its costs to provide facilities. Such an increase must be recovered from IXC's customers while other suppliers will see their costs reduced. Obviously, this disparity is not a competitively neutral situation.

III. The Manner In Which Universal Service Support Obligations Are Assessed Should Not Unduly Burden Resale Carriers

As the Commission already knows, the resale of telecommunications services generates numerous public benefits, including the downward pressure exerted on retail rates, the diversity of product and service offerings and the quality of offerings. The lower prices and service enhancements that resale generates benefit lower volume users because resale carriers generally serve residential and small to mid-sized commercial customers. Further, resellers often provide enhanced, value-added services with the personalized customer support otherwise generally not available to small users.

If the result of the Joint Board's recommendations is to tremendously increase IXC's costs to provide facilities, then it follows that IXC's customers in the resale business will pay higher rates for those underlying facilities. The result could be detrimental to resellers who operate on fairly slim profit margins. Therefore, if the Commission is concerned about maintaining the viability of resale carriers, it should also evaluate the potential impact of the Joint Board's recommendations upon this segment of the industry before it approves a policy that could be harmful.

⁵ IXC's subsidiaries IXC Long Distance, Inc. and Switched Services Communications, Inc. currently pay carrier common line charges which should be eliminated or reduced under the Commission's universal service fund order.

IV. Only Common Carriers Should Fund Universal Service

Companies that contribute to the universal service fund should include only common carriers since the definitions of telecommunications carrier and telecommunications services in the Telecommunications Act require "the offering of telecommunications for a fee directly to the public."⁶ Carrier's carriers do not offer their services indiscriminately to the public and thus should be excluded from requirements to provide universal service funding.

V. Funding Should be Based on Interstate Retail Revenues Billed to End Users

Administration should be simple and easy to administer. This would facilitate auditing of the support and help guarantee that the support mechanism meets the requirements of the Act. To accomplish this, a viable option would be to base funding on interstate retail revenues from end users. This would prevent double counting and would avoid giving an incentive to bypass.

VI. Conclusion

For the reasons stated above, the Commission should adopt a new competitively neutral system of providing for universal service, so as not to impede the development of local competition as mandated by the 1996 Act. Before ordering specific universal service funding mechanisms the Commission should calculate the effect of the alternatives on each class of carrier (i.e. resellers, small wholesalers, small interexchange carriers, large interexchange carriers, local exchange carriers, etc). By determining the

⁶ 47 U.S.C. § 153(51).

Comments of IXC Communications, Inc.
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effect on each class of telecommunications provider, the Commission can better determine if the potential for harm or unjust and unfair allocation of the universal support exists. The manner in which universal service support obligations are assessed should not unduly burden any class of providers. Finally, only common carriers should be required to contribute to the universal service funding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary L. Mann / JLM". The signature is written in a cursive, flowing style.


December 16, 1996

Gary L. Mann
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Certificate of Service

I, Lois K. Foley, hereby certify that on December 16, 1996, I caused a copy of the Comments of IXC Communications, Inc. ("IXC") in CC Docket 96-45 to be served by U.S. Mail, postage prepaid, on each of the individuals shown on the attached service list, which accompanied the Commission's November 18, 1996 Public Notice [DA 96 1891] in CC Docket 96-45.

December 16, 1996


Lois K. Foley

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